



CITY OF DUBLIN

Land Use and  
Long Range Planning  
5800 Shier-Rings Road  
Dublin, Ohio 43016-1236

Phone/TDD: 614-410-4600  
Fax: 614-410-4747  
Web Site: www.dublin.oh.us

February 2009

## BOARD OF ZONING APPEALS APPLICATION

(Code Section 153.231)

### I. PLEASE CHECK THE TYPE OF APPLICATION:

- ☒ **Administrative Appeal (Code Section 153.231)**  
☒ Administrative ☐ Stream Corridor Protection Zone  
☐ Building Construction
- ☐ **Special Permit (Code Section 153.090)**  
☐ List Special Permit Type \_\_\_\_\_
- ☐ **Variance (Code Section 153.231)**  
☐ Non-Use (area) Variance  
☐ Use Variance
- ☒ **Other (Please Specify):** Appeal of Decision of Architectural Review Board of  
Decision Upon Application No. 15-055 ARB

### II. PROPERTY INFORMATION: This section must be completed.

Property Address(es): 5051 Brand Road, Dublin, Ohio 43017	
Tax ID/Parcel Number(s): 273-04536-00	Parcel Size(s) (Acres): 5.0 Acres
Existing Land Use/Development: Single Family Home	

#### IF APPLICABLE, PLEASE COMPLETE THE FOLLOWING:

Proposed Land Use/Development:  
Demolition of Existing Structure and Replacement with Single Family Home

### III. CURRENT PROPERTY OWNER(S): Please attach additional sheets if needed.

Name (Individual or Organization): Donn J. Herron, Trustee of the Patricia A. Herron Family Trust U/A 04/02/2011	
Mailing Address: (Street, City, State, Zip Code) 1305 County Road 5 North, Zanesfield, Ohio 43360-947	
Daytime Telephone: 937-355-044	Fax:
Email or Alternate Contact Information: William L. Loveland, Attorney, 3300 Riverside Drive, Suite 125, Upper Arlington, Ohio 43221; (614) 928-9107; wloveland@lovelandlaw.net	

### IV. APPLICANT(S): This is the person(s) who is submitting the application if different than the property owner(s) listed in part III. Please complete if applicable.

Name: Thaddeus A. and Jessica R. Kitrell	Applicant is also property owner: yes <input checked="" type="checkbox"/> no <input type="checkbox"/>
Organization (Owner, Developer, Contractor, etc.): Contract Purchasers	
Mailing Address: (Street, City, State, Zip Code) 8888 Cruden Bay Court, Dublin, Ohio 43017	
Daytime Telephone:	Fax:
Email or Alternate Contact Information: c/o William L. Loveland	

FILE COPY

RECEIVED

AUG 21 2015  
15-081AA  
CITY OF DUBLIN, OH

**V. REPRESENTATIVE(S) OF APPLICANT / PROPERTY OWNER:** This is the person(s) who is submitting the application on behalf of the applicant listed in part IV or property owner listed in part III. Please complete if applicable.

Name: William L. Loveland, Attorney at Law	
Organization (Owner, Developer, Contractor, etc.): Owner's Attorney	
Mailing Address: (Street, City, State, Zip Code) 3300 Riverside Drive, Suite 125, Upper Arlington, Ohio 43221	
Daytime Telephone: (614) 928-9107	Fax: (614) 737-9857
Email or Alternate Contact Information: wloveland@lovelandlaw.net	

**VI. AUTHORIZATION FOR OWNER'S APPLICANT or REPRESENTATIVE(S):** If the applicant is not the property owner, this section must be completed and notarized.

I, <u>Donn J. Herron, Trustee of the Patricia A, Herron Family Trust U/A 04/02/2011</u> , the owner, hereby authorize <u>William L. Loveland</u> to act as my applicant or representative(s) in all matters pertaining to the processing and approval of this application, including modifying the project. I agree to be bound by all representations and agreements made by the designated representative.	
Signature of Current Property Owner: <u>✓ Donn J Herron Trustee</u>	Date: 8-20-2015

☐ Check this box if the Authorization for Owner's Applicant or Representative(s) is attached as a separate document

Subscribed and sworn before me this 20<sup>th</sup> day of August, 20 15

State of Ohio

County of Franklin

Notary Public

Kathleen M. Michael



KATHLEEN M. MICHAEL  
Notary Public, State of Ohio  
My Commission Expires 02-21-2019

**VII. AUTHORIZATION TO VISIT THE PROPERTY:** Site visits to the property by City representatives are essential to process this application. The Owner/Applicant, as notarized below, hereby authorizes City representatives to visit, photograph and post a notice on the property described in this application.

I, <u>Donn J. Herron, Trustee</u> , the owner or authorized representative, hereby authorize City representatives to visit, photograph and post a notice on the property described in this application.	
Signature of applicant or authorized representative: <u>✓ Donn J Herron Trustee</u>	Date: 8-20-2015

**VIII. UTILITY DISCLAIMER:** The Owner/Applicant acknowledges the approval of this request for rezoning by the Dublin Planning and Zoning Commission and/or Dublin City Council does not constitute a guarantee or binding commitment that the City of Dublin will be able to provide essential services such as water and sewer facilities when needed by said Owner/Applicant.

I, <u>Donn J. Herron, Trustee</u> , the owner or authorized representative, acknowledge that approval of this request does not constitute a guarantee or binding commitment that the City of Dublin will be able to provide essential services such as water and sewer facilities when needed by said Owner/Applicant.	
Signature of applicant or authorized representative: <u>✓ Donn J Herron Trustee</u>	Date: 8-20-2015

**IX. APPLICANT'S AFFIDAVIT:** This section must be completed and notarized.

I, Donn J. Herron, Trustee, the owner or authorized representative, have read and understand the contents of this application. The information contained in this application, attached exhibits and other information submitted is complete and in all respects true and correct, to the best of my knowledge and belief.

Signature of applicant or authorized representative: ✓

Don J Herron Trustee

Date:

Subscribed and sworn to before me this 20<sup>th</sup> day of August, 20 15

State of Ohio

County of Franklin

Notary Public

Kathleen M. Michael



KATHLEEN M. MICHAEL  
Notary Public, State of Ohio  
My Commission Expires 02-21-2019

NOTE: THE OWNER, OR NOTED REPRESENTATIVE IF APPLICABLE, WILL RECEIVE A FACSIMILE CONFIRMING RECEIPT FOR THIS APPLICATION

**FOR OFFICE USE ONLY**

Amount Received: <u>\$100</u>	Application No: <u>15-001AA</u>	BZA Date(s):	BZA Action:
Receipt No:	Map Zone: <u>5</u>	Date Received: <u>02/21/15</u>	Received By: <u>JMP</u>
Type of Request: <u>Appeal - ARB decision</u>			
N, S, E, W (Circle) Side of: <u>Brand Rd.</u>			
N, S, E, W (Circle) Side of Nearest Intersection: <u>Cottman Rd</u>			
Distance from Nearest Intersection: <u>1100'</u>			
Existing Zoning District: <u>R1, Restricted Suburban Residential</u>			

**BEFORE THE CITY OF DUBLIN BOARD OF ZONING APPEALS  
FRANKLIN COUNTY, OHIO**

Donn J. Herron, Trustee of the  
Patricia A. Herron Family Trust  
U/A 04/02/2011  
1305 County Road 5 North  
Zanesfield, Ohio 43360-9747,

Thaddeus A Kittrell  
8888 Cruden Bay Court  
Dublin, Ohio 43017,

and

Jessica R. Kittrell  
8888 Cruden Bay Court  
Dublin, Ohio 43017,

Appellants,

vs

City of Dublin  
Architectural Review Board  
5800 Shier-Rings Road  
Dublin, Ohio 43016

and,

City of Dublin, Ohio  
5800 Shier-Rings Road  
Dublin, Ohio 43016

Appellees.

Appeal of Decision of  
Architectural Review Board  
Application No. 15-055-ARB  
Decision Announced August 4,  
2015

**NOTICE OF APPEAL FROM AN ADMINISTRATIVE ORDER**

Pursuant to the provisions of Section 153.231(C)(1) and 153.235 (F) of the Codified Ordinances of the City of Dublin, Ohio, notice is hereby given that Donn J. Herron, Trustee of the Patricia A. Herron Family Trust U/A 04/02/2011, owner of the real property located at 5051 Brand Road, Dublin, Ohio 43017, Franklin County Auditor

Parcel No. 273-04536-00 (the "Property"), being the property that is the subject of Architectural Review Board Application No. 15-055-ARB, and Thaddeus A. Kittrell and Jessica R. Kittrell, Applicants in the above identified matter, appeal to the City of Dublin Board of Zoning Appeals from the decision of the Architectural Review Board made on or about August 4, 2015, denying the application of Thad and Jessica Kittrell seeking a permit to demolish the obsolete and deteriorated residence that exists on the Property.

The Appellant's grounds for this appeal include, without limitation, the following:

1. The decision to deny the application was not supported by competent evidence presented to the Architectural Review Board;
2. The Architectural Review Board erred by failing to give proper weight to the only evidence before it, where that evidence was competent and supported by expert opinion, and where no competent contrary evidence was submitted;
3. The decision is unsupported because the Architectural Review Board did not expressly consider all of the factors that it is required to consider under the governing code provisions including, particularly, the economic hardship imposed by the decision, and the fact that there is no reasonable economic use for the structure as it exists, and the cost of restoration is prohibitive;
4. The decision is void because it is beyond the jurisdiction of the Architectural Review Board;
5. The decision is unconstitutional under both the U.S. and the Ohio Constitutions because it represents a taking of property without compensation.
6. The decision is unconstitutional under both the U.S. and the Ohio Constitutions because the regulations, the decision, and the process utilized are all in violation of the Appellant's due process and equal protection rights.

7. The decision is unconstitutional because the provisions of Chapter 153 of the City of Dublin Codified Ordinances as applied to the Property and the Application are unconstitutional, both facially and as applied in this matter.

Because minutes and records are not yet available for review, the Appellant reserves the right to amend, modify or supplement this statement of grounds for Appeal. The administrative decision of the City of Dublin Architectural Review Board is not supported by reliable, probative, or substantial evidence, and has been rendered in a manner that is contrary to governing law, through a process that was procedurally deficient, and by imposing regulations that are unconstitutional.

This is an appeal of an Administrative Order upon questions of law, questions of fact, and constitutional grounds.

**LOVELAND LAW, LLC**

By: 

William L. Loveland (0007649)  
3300 Riverside Drive, Suite 125  
Upper Arlington, Ohio 43221-1765  
Telephone: (614) 928-9107  
Facsimile: (614) 737-9857  
E-mail: [wloveland@lovelandlaw.net](mailto:wloveland@lovelandlaw.net)

Attorney for Appellants  
Donn J. Herron, Trustee, Thaddeus A.  
Kittrell and Jessica R. Kittrell